

## HOUSE BILL NO. 188

INTRODUCED BY E. CLARK

A BILL FOR AN ACT ENTITLED: "AN ACT STATUTORILY APPROPRIATING PART OF THE VIDEO GAMBLING MACHINE GROSS INCOME TAX REVENUE TO THE BOARD OF HORSERACING FOR DISTRIBUTION TO COUNTIES THAT HAVE BOTH AN ANNUAL COUNTY FAIR AND LICENSED HORSERACING TO FINANCE THE COSTS OF LICENSED HORSERACING, AGRICULTURAL AND YOUTH ACTIVITIES, AND IMPROVEMENTS AT THE FAIRGROUNDS; AMENDING SECTION 23-5-610, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 23-5-610, MCA, is amended to read:

**"23-5-610. (Temporary) Video gambling machine gross income tax -- records -- distribution -- quarterly statement and payment.** (1) A licensed machine owner shall pay to the department a video gambling machine tax of 15% of the gross income from each video gambling machine issued a permit under this part. A licensed machine owner may deduct from the gross income amounts equal to amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a law enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and physical removal of the money from the machines or of machine tampering and the amounts stolen are documented.

(2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for which a permit has been issued under this part if:

(i) the permit was active for the video gambling machine on December 31, 2000;

(ii) the department determines that the video gambling machine is incapable, in the form in which it was approved by the department, of communicating with the automated accounting and reporting system authorized by 23-5-637; and

(iii) the licensed machine owner participates in the automated accounting and reporting system and incurs actual hardware or software costs prior to December 31, 2003, for conversion of the video gambling machine to make it compatible with the automated system.

(b) The amount of the tax credit allowed under subsection (2)(a) is \$250 for each video gambling machine or the actual hardware and software cost necessary for conversion of the video gambling machine to the automated accounting and reporting system, whichever is less.

(3) If a tax credit is claimed under subsection (2)(a), the credit is deducted from the tax due for the quarter or quarters that begin after the video gambling machine for which the tax credit is claimed is connected to the automated accounting and reporting system authorized by 23-5-637.

(4) A licensed machine owner shall keep a record of the gross income from each video gambling machine issued a permit under this part in the form the department requires. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(5) (a) For each video gambling machine issued a permit under this part but not connected to the department's automated accounting and reporting system, a licensed machine owner shall, within 15 days after the end of each quarter and in the manner prescribed by the department, complete and deliver to the department a statement showing the total gross income, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The statement must contain other relevant information that the department requires.

(b) For each video gambling machine issued a permit under this part that is connected to the department's automated accounting and reporting system, the department shall, within 5 working days after the end of each quarter, complete and deliver to the licensed machine owner (with a copy sent to the licensed operator, if different from the licensed machine owner, on whose premises the machine is placed) a statement showing the total gross income from the video gambling machine, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The licensed machine owner shall remit the total amount due the state under this subsection within 25 days after the end of each quarter.

(6) (a) (i) ~~Except as provided in subsection (7), the department shall, in accordance with the provisions of 15-1-501, forward withhold one-third of the tax collected under subsection (5) to the general fund.~~

(ii) The department shall, in accordance with the provisions of 15-1-501, forward 96% of the withheld one-third of the tax to the general fund.

(iii) The department shall deposit 4% of the withheld one-third of the tax in the board of horseracing's special revenue account provided for in 23-4-105. The money deposited under this

1 subsection (6)(a)(iii) is statutorily appropriated, as provided in 17-7-502, to the board of horseracing. The  
2 board shall distribute the money deposited under this subsection (6)(a)(iii) to the treasurers of counties that  
3 have both an annual county fair and licensed horseracing. The amount distributed to a county treasurer  
4 must be in the proportion that the number of days of licensed horseracing in the county bears to the total  
5 number of days of licensed horseracing in the state.

6 (iv) Each county shall distribute one-half of the funds deposited with the county treasurer for direct  
7 administrative costs and direct expenses of licensed horseracing operations incurred by the county fair  
8 association, fair board, or horseracing association because of licensed horseracing conducted in the county  
9 and shall use one-half of the funds to finance agricultural and youth activities and improvements at the  
10 fairgrounds.

11 (b) The department shall, in accordance with the provisions of 15-1-501, forward the remaining  
12 two-thirds of the tax collected under subsection (5) to the treasurer of the county or the clerk, finance  
13 officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county  
14 or municipal treasury. Counties are not entitled to proceeds from taxes on income from video gambling  
15 machines located in incorporated cities and towns. The two-thirds local government portion of tax  
16 collected under subsection (5) is statutorily appropriated, as provided in 17-7-502, to the department for  
17 deposit to the county or municipal treasury.

18 (7) Receipts from the state's share of taxes collected under this section are pledged and dedicated  
19 to guarantee repayment of loans participated in under 23-5-638 in an amount sufficient to meet the  
20 prepayment obligation for the fiscal year during which the loans are made. The amount of taxes pledged  
21 by this subsection is the dollar amount of loan participation under 23-5-638 and must be allocated to a  
22 separate account in the short-term investment pool. The board of investments is not entitled to use the  
23 proceeds from taxes collected under this section to repay a loan made under 23-5-638 unless the board  
24 certifies that all other commercially available means of collection on the loan have been exhausted.  
25 (Terminates December 31, 2005--sec. 10, Ch. 424, L. 1999.)

26 **23-5-610. (Effective January 1, 2006) Video gambling machine gross income tax -- records --**  
27 **distribution -- quarterly statement and payment.** (1) A licensed machine owner shall pay to the department  
28 a video gambling machine tax of 15% of the gross income from each video gambling machine issued a  
29 permit under this part. A licensed machine owner may deduct from the gross income amounts equal to  
30 amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order,

1 if a law enforcement agency investigated the theft, and if the theft is the result of either unauthorized  
2 entry and physical removal of the money from the machines or of machine tampering and the amounts  
3 stolen are documented.

4 (2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for  
5 which a permit has been issued under this part if:

6 (i) the permit was active for the video gambling machine on December 31, 2000;

7 (ii) the department determines that the video gambling machine is incapable, in the form in which  
8 it was approved by the department, of communicating with the automated accounting and reporting  
9 system authorized by 23-5-637; and

10 (iii) the licensed machine owner participates in the automated accounting and reporting system and  
11 incurs actual hardware or software costs prior to December 31, 2003, for conversion of the video  
12 gambling machine to make it compatible with the automated system.

13 (b) The amount of the tax credit allowed under subsection (2)(a) is \$250 for each video gambling  
14 machine or the actual hardware and software cost necessary for conversion of the video gambling machine  
15 to the automated accounting and reporting system, whichever is less.

16 (3) If a tax credit is claimed under subsection (2)(a), the credit is deducted from the tax due for  
17 the quarter or quarters that begin after the video gambling machine for which the tax credit is claimed is  
18 connected to the automated accounting and reporting system authorized by 23-5-637.

19 (4) A licensed machine owner shall keep a record of the gross income from each video gambling  
20 machine issued a permit under this part in the form the department requires. The records must at all times  
21 during the business hours of the licensee be subject to inspection by the department.

22 (5) (a) For each video gambling machine issued a permit under this part but not connected to the  
23 department's automated accounting and reporting system, a licensed machine owner shall, within 15 days  
24 after the end of each quarter and in the manner prescribed by the department, complete and deliver to the  
25 department a statement showing the total gross income, together with the total amount due the state as  
26 video gambling machine gross income tax for the preceding quarter. The statement must contain other  
27 relevant information that the department requires.

28 (b) For each video gambling machine issued a permit under this part that is connected to the  
29 department's automated accounting and reporting system, the department shall, within 5 working days  
30 after the end of each quarter, complete and deliver to the licensed machine owner (with a copy sent to

1 the licensed operator, if different from the licensed machine owner, on whose premises the machine is  
2 placed) a statement showing the total gross income from the video gambling machine, together with the  
3 total amount due the state as video gambling machine gross income tax for the preceding quarter. The  
4 licensed machine owner shall remit the total amount due the state under this subsection within 25 days  
5 after the end of each quarter.

6 (6) (a) (i) The department shall, in accordance with the provisions of 15-1-501, forward withhold  
7 one-third of the tax collected under subsection (5) to the general fund.

8 (ii) The department shall, in accordance with the provisions of 15-1-501, forward 96% of the  
9 withheld one-third of the tax to the general fund.

10 (iii) The department shall deposit 4% of the withheld one-third of the tax in the board of  
11 horseracing's special revenue account provided for in 23-4-105. The money deposited under this  
12 subsection (6)(a)(iii) is statutorily appropriated, as provided in 17-7-502, to the board of horseracing. The  
13 board shall distribute the money deposited under this subsection (6)(a)(iii) to the treasurers of counties that  
14 have both an annual county fair and licensed horseracing. The amount distributed to a county treasurer  
15 must be in the proportion that the number of days of licensed horseracing in the county bears to the total  
16 number of days of licensed horseracing in the state.

17 (iv) Each county shall distribute one-half of the funds deposited with the county treasurer for direct  
18 administrative costs and direct expenses of licensed horseracing operations incurred by the county fair  
19 association, fair board, or horseracing association because of licensed horseracing conducted in the county  
20 and shall use one-half of the funds to finance agricultural and youth activities and improvements at the  
21 fairgrounds.

22 (b) The department shall, in accordance with the provisions of 15-1-501, forward the remaining  
23 two-thirds of the tax collected under subsection (5) to the treasurer of the county or the clerk, finance  
24 officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county  
25 or municipal treasury. Counties are not entitled to proceeds from taxes on income from video gambling  
26 machines located in incorporated cities and towns. The two-thirds local government portion of tax  
27 collected under subsection (5) is statutorily appropriated, as provided in 17-7-502, to the department for  
28 deposit to the county or municipal treasury."

29  
30 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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